

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number : 10/588,092 Confirmation No.: 4356
Applicant : Paul Gioia
Filed : May 10, 2007
Title : **EMULSIFIABLE CONCENTRATE COMPRISING A DINITROANILINE
COMPOUND**
TC/Art Unit : 1616
Examiner: : A. Soroush

Docket No. : 60838.000610
Customer No. : 21967

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132

Sir,

I, Paul Oreste Gioia, declare that:

1) I received a BSc with Honors from La Trobe University in 1979, with Chemistry majors

2) I have been associated with research in the field of agricultural pesticide formulations for approximately 18 years, and am co-holder of 5 world patents publications.

Details of my education, are given in my *curriculum vitae* which is attached as Exhibit A.

3) I am the named inventor of U.S. Patent Application Number 10/588,092 (hereinafter the "'092 application") and am an employee of RHODIA CHEMICAL PTY LTD. (ACN No.: 004 449 870)

4) This declaration is being filed in support of Applicant's response to the Non-Final Office Action mailed July 30, 2009 in the '092 application.

5) I have read, and am familiar with the following:

- The specification of the '092 application, filed May 10, 2007;

- The current claims as reflected in the Amendment and Response to Final Office Action filed April 30, 2009, in the '092 application; and
- The Non-Final Office Action mailed July 30, 2009, in the '092 application.

6) At my direction, the following emulsifiable concentrates were prepared:

Formulation		Comparative Formulation	Formulation of the Invention
	Purpose in Formulation	g/L	g/L
Pendimethanlin Tech 95.4% a.e.	Active ingredient	455.97	455.97
Antarox 724/P	Emulsifier	60.00	60.00
Rhodacal 60/BE-C	Emulsifier	60.00	60.00
Rhodiasolv® RPDE (mixture of dimethyl adipate, dimethyl glutarate, and dimethyl succinate)	Tested diester co-solvent	20.00	/
Rhodiasolv® DIB (mixture of dibutyl adipate, dibutyl glutarate, and dibutyl succinate)	Tested diester co-solvent	/	20.00
Solvesso 200	Solvent	To volume	To volume

7) At my direction, crystallization and emulsion quality tests were performed on the emulsifiable concentrates under the conditions shown below:

Formulation	Test Condition	
	Fresh	1 week at -5 °C
Comparative Formulation	No crystals Good emulsion quality	No crystals Degraded emulsion quality
Formulation of the Invention	No crystals Good emulsion quality	No crystals Good emulsion quality

8) The emulsion quality of a formulation needs to be the same, before and after it under goes storage stability at any temperature. Time and temperature can have an effect on the emulsion quality of the formulation. If some incompatibility is present, degradation of the emulsion can take place with increasing time at different temperatures. This will affect the

bio-efficacy of the formulation. A poor emulsion will give inadequate application of the active, resulting with poor bio-efficacy.

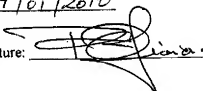
Emulsion quality is assessed, visually or by instruments. In this case it was done visually.

The Comparative Formulation was identified as having degraded emulsion quality by the visually-identified presence of a coarse emulsion on dilution (Coarse White), followed by increasing amount of sludge sedimentation formation on standing. The Formulation of Invention gave a much finer emulsion (Fine Blue) with minimal sludge formation on standing.

9) The undersigned acknowledges that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001), and may jeopardize the validity of the application or any patent issuing thereon. The undersigned declares further that all statements made herein, of his own knowledge, are true and that all statements made on information and belief are believed to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 27/01/2010

Declarant's Signature: 

Home Address:

1 Kialoa Court, Taylor Lakes
Victoria, 3038 Australia



Paul O. Gioia

6 Eurora Court,
Taylors Lakes, Victoria, 3038.
03 9390 2109 (H)

Date of Birth: 24 October, 1952

Marital Status: Married

PERSONAL INFORMATION

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RECREATIONAL ACTIVITIES & INTERESTS:

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Skin Diving
Waste Recycling
Wine Making
Cooking
Gardening

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Royal Australian Chemical Institute
Associate (Key) Member, Certified Chemist

Australian Chemist Specialities Manufacturers Association.

Sterilisation & Disinfection Society Victoria.

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SECONDARY:



1967-1969 Ancona Technical Institute, Italy
DIPLOMA IN MECHANICAL ENGINEERING

1973 Essendon High School, Victoria
H.S.C.

English	Physics
Italian	Chemistry
Biology	Gen. Maths

TERTIARY:

1973-1978 La Trobe University, Melbourne.
BSC (HONS)

1st Yr. Chem I, Biol. IB, Biol. IA, Maths IA.
2nd Yr. Chem II, Biochem II, Zoology II.
3rd Yr. Chem IIIA, Chem IIIB.
4th Yr. Chem IV.

CURRENT JOB POSITION

22/10/1998 – current RHODIA AUSTRALIA PTY LTD – RHODIA CHEMICALS PTY LTD

Position: Technical / Lab Manager Agrochemical Formulation Additives

July 1990 to 22/10/1998: others (* to be updated)

30/7/1990 LAPORTE GROUP AUSTRALIA LIMITED

The Division of Lustral - Diamond K primarily manufactures industrial hygiene and cleaning chemicals. The Redic division manufactures industrial coatings (eg. Flexible Membranes), solvent cleaners and speciality products. (eg. Aircraft Cleaners, Paint Strippers etc.);
The Plaskem-Evode Division manufactures industrial adhesives (eg. Solvent Cements, Hot Melts, Adhesive, Sealants etc.)

From 27/10/93 Position: Technical Manager, for the divisions of Lustral-Diamond K, Redic & Plaskem -Evode.
Reporting to General Manager & Laporte Technical Director (UK).

DUTIES & RESPONSIBILITIES:

- To ensure all work in the Technical Department is conducted in a safe manner in line with the Company's Safety Policy.
- Plan and implement the Technical department's financial and budgetary affairs.
- To ensure that Plaskem, Redic and Lustral's Quality Systems are fully operational at all times.
- Hire, train and assess Technical Department's personnel.
- Register, vet, authorise and issue all quality related documentation.
- To approve, allocate and co-ordinate to completion all development project within Departmental Divisions.
- Submission of Status Technical Reports within Laporte at national and international levels.
- Draft and issue Material Safety Data Sheets and initiate Product Data Sheets and Label, as requested.
- Provide technical service, advice and assistance to company divisions and to customers.
- Comply and keep up to date with regulatory affairs.
- Maintain the company's Complaint System and investigate complaints arising from the Divisions.
- To draft and issue company's procedure forms to facilitate the running of the Technical Department.
- Keep abreast with new technical developments in local and overseas related Industries.
- Maintain computer data bases relating to development and product evaluation work.
- Liaise with Quality Assurance Co-ordinator the implementation of ISO9002 for the Divisions.

MAJOR ACHIEVEMENTS:

Resolved Non-Compliance of waste effluent discharge issued by Water Authorities, by implementing waste minimisation, introducing test controls to monitor waste limits to conform to the Trade Waste Agreement, and reviewing and upgrading the Waste Treatment Plant and the chemical treatment of the waste discharge within budget costs.

Established major customers at National level by formulating products to their specifications. For example Carlovers, Gilbertsons Meat Works, Cubico Transport, Mauri Foods (Qld).

Supervising and assisting with the implementation of 70% of Total Quality System for Quality Assurance Accreditation AS/NZS ISO 9002 due to be completed by July 1996.

From 30/7/90

Position: Chief Chemist, for the Division of Lustral & Diamond K. Reporting to General Manager.

DUTIES & RESPONSIBILITIES:

1. Administration of Technical Department
- i. Research & Development
Directing and training of Technical Staff.
Development of new and improvement of existing industrial and institutional cleaners, disinfectants and speciality products (eg. Paint strippers, car and floor care products).
 - ii. Quality Control
Supervising and training technical staff.
Trouble shooting in productions.
Maintaining and up-grading test methods and quality control specifications of products.
 - iii. Regulatory Affairs
Preparation of Material Safety Data Sheets according to Australian guide lines and product labels.
Submission for Instrument of Approvals by Australian Quarantine and Inspection Service.
Health department approvals.
Submissions for Therapeutic Goods Act testing.
Assistance for the preparation of Product Data Sheets and Emergency Procedure Guides.
Registered Poison Licence holder for Schedules 5 & 6.

Familiar with:
Australian Code for the Transport of Dangerous Goods by Road and Rail.
Standard for the Uniform Scheduling of Drugs and Poison.
Occupational Health & Safety regulations.
Melbourne Waters Trade Waste guide lines.
 - iv. Technical Documentation
In house and overseas technical reports.
Technical correspondence with Government authorities, customers and distributors, and within Laporte Groups, interstate and overseas (U.K. & U.S.A.).
 - v. Budgeting Technical Expenses
Laboratory
Projects
Outside laboratory services
Technical literature.
 - vi. Technical Presentations
Give technical presentations within and for the company:
Sales conferences, customer seminars, sales force training sessions.
2. To Establish Total Quality Management Systems (TQMS) for Quality Assurance Accreditation AS3902

- i. Chairman of TQM Committee
Organising and running TQM to achieve creditation by the year 1993/94
 - ii. Quality Assurance Manager
To maintain and up-grade TQMS for the company.
- 3. Technical Service
 - i. Customer queries and complaints.
 - ii. On-site Customer Evaluations
- 4. On Site Safety
 - i. Laporte Safety Co-ordinator
To communicate and implement all company's safety matters within Laporte Groups.
To conduct periodically on-site safety audits.
 - ii. Safety Committee Chairman
Organisation and running of Safety Committee.
 - iii. 2nd Level First Aider.

EMPLOYMENT HISTORY

31.10.89 - 13.7.90

**THE SWIFT WATTS WINTER COMPANY
BURNS PHILP GROUP
(SHIPPING/TRADING DIVISION)**

Position: Industrial Technical Sales Representative
Reporting to State Sales Manager

DUTIES & RESPONSIBILITIES:

Industrial Chemical Sales, Ex-stock and on indent from overseas Principals, to the following Industries:

- (i) Detergent & Janitorial (major)
- (ii) Ceramics (some)
- (iii) Construction & Building Products (few)
- (iv) Metal Treatment (few)

Annual state budget forecast for the Territory.

Market and customer surveys.

Customer requests and complaints.

Provide technical information.

Gather and provide market analysis.

Prepare monthly operational budgets.

5.5.87 - 31.10.89

NICHOLAS KIWI (PACIFIC) PTY. LTD.

(NK)/INSTITUTE OF DRUG TECHNOLOGY AUST. LTD (I.D.T.)

I.D.T. (R & D CONSULTING COMPANY) took over NK Laboratories & Business in November 1987.

From Nov. 1987

Position: Senior Evaluation Chemist (IDT)

Reporting to Development Manager

DUTIES & RESPONSIBILITIES:

- Co-ordination and optimisation of assigned projects in the Consumer Product Division, with close clientele liaison.
- Co-ordination and supervision of development projects and activities of chemist graduates and laboratory technicians.
- Preparation of project plans within agreed development brief and project costs.
- Completion of development projects as per objectives and standards.
- Preparation of reports, dossiers and other documentation.
- Reporting and give presentations of all relevant courses, meetings or symposia within the company
- As member of the Safety Committee, to implement, assist and delegate safety matters within the company.

From 5/11/87

Position: Development Chemist (NK)

DUTIES & RESPONSIBILITIES:

Development of new and improvement of existing house-hold products, for local and International markets.

NICHOLAS KIWI (PACIFIC) PTY. LTD. Cont.

MAJOR ACHIEVEMENTS:

Developed non-rinse floor cleaner for Singapore and Middle East markets.
Re-developed Tuxan Renovation Shoe Polish range.
Developed sneaker cleaner for local and overseas markets.
Methodology development for evaluation and assessment of various consumer products.
Substantial knowledge in Surfactant Technology for cleaning products, emulsifications and dispersions.

Jan. 1981 - 2.5.87

ICI AUSTRALIA OPERATIONS PTY. LTD.

Position: Research Chemist
Reporting to Biological Section Leader.

DUTIES & RESPONSIBILITIES:

- Development and improvement of various agricultural pesticide products. These consist of emulsion concentrates, suspension concentrates (flowables), powders and dispersible granules of insecticide, herbicide and fungicide formulations.
- Contribution to group projects and authored reports
- Technical Support to Surfactant Business group in developing emulsion systems for pesticide formulations for their Asian market.

MAJOR ACHIEVEMENTS

Project leader for the formulation development of a new plant growth regulator, discovered by ICI - UK, resulting with two novel Australian formulations.
Problem solving arising from customer complaints.
Extensive analytical work (GLC) of pesticide active ingredients of various formulations.
Some organic synthetic work.
Introduction of safety equipment for toxic spills of dry solids and powders.

Jan.1980 - Jan.1981

BUNGE BIOPRODUCTS PTY. LTD.

Position: Quality Control/Development Chemist
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- Some process development work.

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Position: Chemical Purchasing Officer
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DUTIES & RESPONSIBILITIES:

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REFEREES

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Telephone: (Bus.) 02 725 5133
(Priv.) 02 899 9746

Mr. Bruce Stirling

General Manager
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Dr. Geraldine Elliott

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Telephone: (Priv.) 03 9836 6785
(Bus.) 03 9853 5666

Dr. Robert E. Kaldawi

Academy of Health Education Vic.

Telephone: (Bus.) 03 9370 1965
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Academy of Health Education Vic.

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